

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

KEVIN LEWIS and SHELLY  
LEWIS,

Plaintiffs,

-VS-

STATE FARM FIRE AND  
CASUALTY COMPANY,

Defendant.

Case No. CIV-21-0379-F

## ORDER

The court has a duty to determine its jurisdiction. Tuck v. United Services Automobile Assoc., 859 F.2d 842, 844 (10<sup>th</sup> Cir. 1988). Upon review of the complaint, the court finds that the diversity of citizenship allegations are deficient for the following reasons.

X An Individual (Plaintiffs Kevin Lewis and Shelly Lewis).

X The pleading does not allege the specific state in which an individual is a “citizen” or has “citizenship.” Allegations regarding residency (*see*, doc. no. 1, ¶ 3) are not sufficient because, for purposes of 28 U.S.C. §1332, citizenship and residence are two entirely distinct concepts.<sup>1</sup>

<sup>1</sup> Residence alone is not the equivalent of citizenship. State Farm Mut. Auto. Ins. Co. v. Dyer, 19 F.3d 514, 520 (10<sup>th</sup> Cir. 1994); Walden v. Broce Construction Co., 357 F.2d 242, 245 (10<sup>th</sup> Cir. 1966). It is domicile, not residence, which is relevant for determining an individual’s citizenship. Siloam Springs Hotel, L.L.C. v. Century Surety Co., 781 F.3d 1233, 1238 (10<sup>th</sup> Cir. 2015). For any number of reasons, an individual can reside in one place but be domiciled in another place; for adults, domicile is established by physical presence in a place, coupled with an intent to remain there. Mississippi Band of Choctaw Indians v. Holyfield, 490 U.S. 30, 48 (1989).

X   A Corporation (defendant State Farm Fire and Casualty Company).

       The pleading does not identify the specific state of incorporation.

  X   The pleading does not identify the specific state in which the corporation has its principal place of business.<sup>2</sup> It is not sufficient to allege (*see*, doc. no. 1, ¶ 10) that a corporation has “its principal place of business in a state other than Oklahoma.”

**Order to Cure Deficiencies.**

Plaintiffs, as the parties invoking this court’s subject matter jurisdiction based on diversity of citizenship, are **DIRECTED** to:


  X   File, within fourteen days of the date of this order, a first amended complaint which includes the missing jurisdictional information.

  X   With respect to the defendant’s citizenship information, the required jurisdictional information may be alleged based on “information and belief.”

  X   If the filer cannot allege the necessary information at this stage, the filer may file a short notice so stating, in which case the filer shall bring this issue to the attention of the court at the status and scheduling conference.

  X   Failure to comply may result in dismissal of this action without prejudice.

IT IS SO ORDERED this 28<sup>th</sup> day of April, 2021.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> *See, Simmons v. Rosenberg*, 572 F. Supp. 823, 825 (E.D.N.Y. 1983) (merely averring that a party is a citizen of a state other than the state of New York is “clearly insufficient to establish diversity jurisdiction....”).